

REMARKS

This Amendment is filed in response to the Final Office Action mailed Feb. 19, 2009 in connection with a Request for Continued Examination and a Petition for Extension of Time. The Applicant respectfully requests reconsideration. All objections and rejections are respectfully traversed.

Claims 1-40 are pending in the application.

Claims 1, 8, 14, 15, 17, 21, 29, 24, and 39 have been amended.

No new claims have been added.

Claim Rejections - 35 U.S.C. §101

At paragraphs 4-5 of the Final Office Action, claims 1-16 were rejected under 35 U.S.C. §101.

In Re Bilski states that “[a] claimed process is surely patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing.” *In re Bilski*, No. 2007-1130 at 10 (Fed. Cir. Oct. 30, 2008) (en banc).

The Applicant respectfully urges that claims 1-16 are statutory at least because they are tied to a particular machine or apparatus. For example, claim 1 recites “generating, *by one or more central processor units (CPUs) executing an application*, a computerized simulation model for the construction project representing project materials in the construction project.” A *central processor unit* is not some abstract idea or concept, but rather a specific hardware device. As such, claim 1 is believed to be clearly tied to a particular machine or apparatus due at least to its recitation of one or more *central processor units*.

Accordingly, the Applicant respectfully urges that claim 1, and the dependent claims 2-16 that depend there from, are statutory.

Claim Rejections - 35 U.S.C. §103

At paragraphs 6-7 of the Final Office Action, claims 1-40 were rejected under 35 U.S.C. §103(a) over Schwegler et al., “New Information Technology Tools Enable Productivity Improvements,” 2000 North American Steel Construction Conference Proceedings, 2000, pages 11-3 to 11-20 (hereinafter “Schwegler”) in view of Kroeger, U.S. Publication No. 2002/0165723 (hereinafter “Kroeger”).

The Applicant’s claim 1, representative in part of the other rejected claims, sets forth (emphasis added):

1. (CURRENTLY AMENDED) A method for managing a construction project comprising:
 - generating, by one or more central processor units (CPUs) executing an application, a computerized simulation model for the construction project representing project materials in the construction project;
 - mapping the project materials represented in the computerized simulation model into constructible elements;
 - displaying the constructible elements as three-dimensional objects in a graphical user interface;*
 - determining at least one work step for each constructible element;
 - receiving a selection in the graphical user interface of at least one constructible element represented as a three-dimensional object to create a work package in the computerized simulation model, the work package comprising the at least one constructible element and the at least one work step for the at least one constructible element;* and
 - sequencing a plurality of work packages for release to work crews.

Schwegler discusses a 4D modeling tool that “allows design and construction professionals to review and change the design and corresponding construction schedule at several levels of detail and in variety of computing environments....” See page 11-4, 3rd full paragraph. Schwegler comments that “[e]ffective staging and sequencing of work enables efficient use of resources and minimizes the waste of labor and materials. Interactive 4D models should respond to these practical needs by displaying not only the installation of components in the 3D model in their final position, but also by supporting a realistic evaluation of a proposed construction schedule.” See page 11-6, 3rd full paragraph.

Kroeger discusses a software package that “integrates [task] scheduling and document management into a single pro-active task oriented project management system.” See paragraph 0095 and 0096. “In the past, it has been common in development projects to make-up a lists of development task to be performed....” See paragraph 0005. “All elements of a project from inception to complete may be treated as tasks.” See paragraph 0106. “Initially a database of tasks is generated....” See paragraph 0023. Tasks are linked to documents in a document manager, for example, by HTML links. See paragraph 0106. The documents may be doc files, xls files, pdf files, jpeg files, etc. See paragraph 0121. “[T]he aforementioned links may allow access to all documents required to complete the task.” See paragraph 0112.

The Applicant respectfully urges that both Schwegler and Kroeger are silent concerning the Applicant’s claimed “*displaying the constructible elements as three-dimensional objects in a graphical user interface*” and “*receiving a selection in the graphical user interface of at least one constructible element represented as a three-dimensional object to create a work package in the computerized simulation model, the work package comprising the at least one constructible element and the at least one work step for the at least one constructible element.*”

The Applicant displays constructible elements as three dimensional objects in a graphical user interface. A user is able to select at least one constructible element represented as a three dimensional object to create a special structure, termed a “work package,” which includes the at least one constructible element and at least one work step for the at least one constructible element. By building work packages from constructible elements represented as three dimensional objects, the user is able to intuitively construct the work packages and visualize how each work package relates to the overall construction project.

Neither Schwegler, nor Kroeger suggest receiving selections in a graphical user interface of constructible elements represented as three-dimensional objects to create structures akin to work packages. Schwegler merely discusses “4D models” that display “not only the installation of components in the 3D model in their final position” but also

support “a realistic evaluation of a proposed construction schedule.” *See* Schwegler page 11-6, 3rd full paragraph. Schwegler does allow a user to select 3D components in the 3D model and then construct “work packages” that include both the selected 3D components and the work steps. One may not build such structures based off of a 3D component view. Indeed, the Final Office Action appears indicate at least partial agreement that Schwegler lacks such teaching, commenting at page that “Schwegler does not explicitly disclose... selecting at least one constructible element to create a work package the work package comprising the at least one constructible element and the at least one work step for the at least one constructible element.”

The deficiencies of Schwegler are not remedied by combination with Kroeger. Kroeger does not receive selections in a graphical user interface of constructible elements represented as three-dimensional objects to create structures akin to work packages. Kroeger simply describes that a development project may be associated with “a list of development tasks to be performed...” (*see* paragraphs 0005 and 0106) and that these tasks may be organized in various ways in a database (*see* paragraph 0023). Such tasks are not fairly equated to the claimed constructible elements. Certainly Kroeger’s tasks are not represented as three-dimensional objects in a graphical user interface. Nor is a user able to select those to construct “work packages” that include both things represented as three-dimensional objects and work steps.

Accordingly, the Applicant respectfully urges that the combination of Schwegler and Kroeger is legally insufficient to make obvious the present claims under 35 U.S.C. §103(a) because neither reference teaches or suggests the Applicant’s claimed novel ***“displaying the constructible elements as three-dimensional objects in a graphical user interface”*** and ***“receiving a selection in the graphical user interface of at least one constructible element represented as a three-dimensional object to create a work package in the computerized simulation model, the work package comprising the at least one constructible element and the at least one work step for the at least one constructible element.”***

In the event that the Examiner deems personal contact desirable in disposition of this case, the Examiner is encouraged to call the undersigned attorney at (617) 951-2500.

In summary, all the independent claims are believed to be in condition for allowance and therefore all dependent claims that depend there from are believed to be in condition for allowance. The Applicant respectfully solicits favorable action.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,

/James A. Blanchette/
James A. Blanchette
Reg. No. 51,477
CESARI AND MCKENNA, LLP
88 Black Falcon Avenue
Boston, MA 02210-2414
(617) 951-2500